

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EMILIANO PEREZ, as Administrator of the
Estate of JUAN RENE JAVIER PEREZ,

07 CIV 8780 (CS)(LMS)

Plaintiff,

-against-

TOWN OF BEDFORD, TOWN/VILLAGE
OF MT. KISCO, and GEORGE BUBARIS,
individually,

**DECLARATION IN SUPPORT
OF MOTION TO COMPEL
TO WESTCHESTER COUNTY
DISTRICT ATTORNEY**

Defendants.


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LEWIS R. SILVERMAN, an attorney duly admitted to practice law in the United States District Court for the Southern District of New York, hereby affirms under the penalties of perjury, the following:

- 1 I am a member of the law firm of RUTHERFORD & CHRISTIE, LLP, attorneys for the defendant, George Bubaris. I am fully familiar with the facts and circumstances of this matter based upon my review of the file maintained by my office in defense of this matter.
2. This declaration is submitted in support of the defendant's Motion to Compel, pursuant to Rules 45 and 26 of the Federal Rules of Civil Procedure, seeking an Order compelling a non-party, the Westchester County District Attorney's Office, to comply with a subpoena duces tecum, and for such other and further relief as this Court deems just and proper.

3. The plaintiff commenced this lawsuit by filing a Complaint on October 11, 2007. An Amended Complaint was filed on December 18, 2007. Attached as Exhibit "A" is a copy of the plaintiff's Amended Complaint.
4. The defendant answered the Amended Complaint and filed the Answer to the Amended Complaint on January 18, 2008. Attached as Exhibit "B" is a copy of Mr. Bubaris's Answer to the Amended Complaint.
5. On July 11, 2008, a subpoena was served on the Westchester County District Attorney's Office. Attached as Exhibit "C" is a copy of the subpoena and affidavit of service.
6. On July 23, 2008, the Westchester County District Attorney's Office objected to the subpoena in correspondence of the same date. A copy of the correspondence is attached as Exhibit "D."

Dated: New York, New York
August 22, 2008



Lewis R. Silverman (LS 9723)

TO: WESTCHESTER COUNTY DISTRICT ATTORNEY (**By Hand**)

Non-Party Respondent

Westchester County Courthouse

111 Dr. Martin Luther King, Jr. Boulevard

White Plains, New York 10601

(914) 995-2000

Attention: John J. Sergi, Esq.

Senior Assistant District Attorney

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Attention: James A. Randazzo, Esq.